

REMARKS/ARGUMENTS

By this Amendment, a new Substitute Specification has been provided and is requested to be entered. Claims 28, 31, 37, 52, and 53 have been cancelled without prejudice. Claims 21-23, 25, 29, 38, and 45-48 have been amended. New claims 55-63 have been added. No new matter is presented in the substitute specification, the amendments to the claims, or the new claims.

Claims 21-23, 25, 29, 33-35, 38-39, 40, 45-51, and 54-63 are now pending in the application.

Objections to Specification

The Office observed that the original specification is massively mis-formatted, and that previous submissions of a substitute specification failed to include (within the request for entry thereof) a statement that no new matter was contained therein. Included with this response are: (1) a clean copy of the substitute specification and (2) a marked-up copy showing changes of the substitute specification over the original. No new matter is added by the amendments to the specification or by the substitute specification.

Rejections Under 35 USC 112

The Office rejected claims 21-23, 25, 29, 33-35, 37-40, and 45-48 under 35 U.S.C. 112, first paragraph, as being indefinite. By this Amendment, claim 21 has been amended per the Examiner's suggestion to remedy the deficiency.

Rejections Under 35 USC 102

Claims 21-23, 29, 33-35, 45, 47, and 48 were rejected under 35 U.S.C 102(b) as being anticipated by Neev (WO '438). The claims as amended are believed allowable over Neev (WO '438), as discussed below.

Both of the previously-presented independent claims, 21 and 38, as amended recite that the intermediate substance comprises "a generally solid layer." By contrast, the Neev (WO '438) reference requires a liquid (i.e., non-solid) substance to coat the skin. That liquid coating can be spread across the skin while allowing hairs to protrude therethrough, and the liquid coating can also flow inside the pores to fill same. See, e.g., FIGS. 5C-5D, 6, 12A, 13A-13C, etc. If the

coating covers up the hairs and/or fails to extend down into the pores, the Neev (WO '438) device and method is rendered inoperative. A material applied as a solid layer to the skin (as is the case with the current invention) would press down against and cover up the hairs, and would not flow into the pores to fill same. Only a liquid material will work with the Neev (WO '438) invention – a solid layer as claimed in the current application would render the Neev (WO '438) invention inoperative for its intended purpose.

Rejections Under 35 USC 103

Claims 25 and 28 were rejected as being unpatentable over Neev (WO '438). As discussed above, however, the claims as amended recite an intermediate material comprising a solid layer, whereas Neev (WO '438) discloses and requires a liquid material, thus teaching away from the current invention. Accordingly claims 25 and 28 are believed allowable.

Claims 38-40 and 49-54 were rejected as being obvious over Neev (WO '438) in combination with Baker et al. As discussed above, however, the claims as amended recite an intermediate material comprising a solid layer, whereas Neev (WO '438) teaches away from such a solid layer. Accordingly claims 38-40 and 49-54 are believed allowable.

New Claims 55-63

New claims 55-63 have been added by this Amendment, and recite a device configured to be held in a human hand and to be placed against a target area of skin for treatment thereof. The device comprises an energy source and an intermediate layer, wherein the intermediate layer is part of the device itself and comprises a solid layer configured for placement against the target area of skin. Various independent claims recite the intermediate layer positioned within a replaceable cap positioned at a first end of the device. Other independent claims recite various types of energy sources. It is believed that new claims 55-63 are allowable.

Fees for this Amendment

By this Amendment, there are now 3 independent claims and 28 total claims. The highest number of total claims previously paid for is believed to be 27 (as evidenced by the fee worksheet dated 4/24/2007 in the file history), so that an additional fee of \$25 (small entity) is

due for the additional dependent claim. Accordingly, a check in the amount of \$25.00 to cover the extra claim is submitted herewith.

Request for Extension of Time to Respond

Pursuant to 37 C.F.R. 1.136(a), Applicant hereby requests an extension of time for Three Months to respond to the above-referenced Office Action. A check in the amount of \$525.00 to cover the required fee (small entity) is submitted herewith.

Request for Continued Examination (RCE)

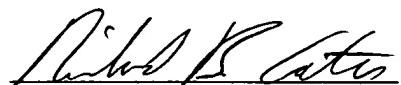
A Request for Continued Examination and the required fee of \$405.00 (small entity) is submitted herewith.

Conclusion

In view of the above amendments and discussion, all pending claims are believed allowable. Should the Examiner have any questions, the Examiner is encouraged to contact the attorney of record at the telephone number shown below.

Respectfully submitted,

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